

March 30, 2007

Mr. Chairman, I regret that I am unable to attend the Committee hearing scheduled for today, March 30th, regarding SB 365. Please accept my written testimony, herein, if you will.

For the record, my name is Jim Gruber; I am the Chief Water Commissioner on Rock Creek and Red Lodge Creek below Cooney Reservoir in Carbon County. I am responsible for distributing over 94,000 miner's inches of decreed water and 21, 000 acre-feet of stored water into 121 diversion sites on 50 miles of creek. Operating expenses for me and one Deputy Water Commissioner amount to \$40,000 per water year (May 1 thru Sept 30).

I appreciate the efforts of Senator Story and the other sponsors of SB 365 and the interest from both the Senate and the House Committees on Natural Resources in establishing a mechanism for offsetting costs associated with distributing water. This is certainly the most import issue in SB 365.

I wish to comment on a concern raised by Representative Barrett in the Committee hearing on March 28. I understand that her motion was to amend Section 1, line 15 to reinstate language relating to the daily distribution of water. While it is customary to keep daily record of the amount of water distributed to each water user in the Rock Creek basin, it is certainly not possible for water commissioners to visit each of the 121 diversion sites on daily basis. On Rock Creek, myself and previous commissioners employ a method of visiting these diversion sites or intrusting a designated "ditch rider" to adjust water flow when the water commissioner determines an adjustment is required. Water commissioners also spot check each diversion and visits become more frequent when concerns arise.

I strongly support the language as written in SB 365. The language will maintain the status quo and will be more legally defensible in the event of an objection by a water user regarding the water commissioner's inability to visit each diversion site on a daily basis.

I urge the committee to strike Representative Barrett's motion to amend.

Respectfully,

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